

In the Drawings

There are no amendments to the drawings.

Remarks

Applicant has amended Claims 1, 14, 29, 41 and 49. Applicant respectfully submits that no new matter was added by the amendment, as all of the amended matter was either previously illustrated or described in the drawings, written specification and/or claims of the present application. Entry of the amendment and favorable consideration thereof is earnestly requested.

Claims 1, 29 and 41

Claims 1, 29 and 41 have been amended to include the limitations of "crediting the participant with the difference value" and "adjusting the daily food consumption goal of a future day."

The Examiner has submitted that "[t]he word "for" in the claim may be properly interpreted as "capable of," and "capable of" does not require that reference actually teach the intended use of the element, but merely that the reference does not make it so it is incapable of performing the intended use." (Official Action 3/13/06, p. 4.)

Applicant respectfully submits that Claims 1, 29 and 41 now positively recited the step of "adjusting the daily food consumption goal of a future day", which is not disclosed, taught or suggested in U.S. Patent No. 6,478,736 (Mault).

Accordingly, Applicant respectfully submits that, as previously submitted, Mault fails to teach, disclose or suggest "crediting the participant with the difference value"

and "adjusting the daily food consumption goal of a future day" as required by Claims 1, 29 and 41 and therefore cannot anticipate or render Claims 1, 29 and 41 obvious.

Claims 14 and 49

Claims 14 and 49 have been amended to include the limitations of "a time-based structured meal plan schedule being a meal plan schedule automatically based on at least one component of the initial personal profile" and "a time-based non-structured meal plan schedule being a meal plan schedule based upon food selections received from the participant."

The Examiner has submitted that "[t]he meal plans being timed based or not is not claimed by the applicant." (Official Action 3/13/06, p. 4.) Applicant respectfully disagrees. Claim 14 previously included the limitations "determining an initial time-based plan as a function of the profile received from the user to facilitate control of body weight" and "selectably providing to the user the time-based plan for facilitating control of body weight." (emphasis added.) However, Applicant has further amended the claims to more clearly identify this limitation.

Accordingly, Applicant respectfully submits that Mault fails to teach, disclose or suggest "a time-based structured meal plan schedule being a meal plan schedule automatically based on at least one component of the initial personal profile" and "a time-based non-structured meal plan schedule being a meal plan schedule based upon food selections received from the participant" as required by Claims 14 and 49 and therefore cannot anticipate or render Claims 14 and 49 obvious.

Claim 62

Claim 62 requires among other limitations “receiving an indication from the participant indicative of a meal plan type desired by the participant, wherein each of the meal plan types has an associated percentage of at least one of carbohydrates, protein, fat, and fruits and vegetables that the user is prescribed to eat in the meal plan” and “forming a meal plan schedule based on at least one component of the initial personal profile and upon the indication received from the participant, the meal plan schedule being consistent with the daily food consumption goal and utilizing foods having values associated therewith, said meal plan schedule comprising a schedule of pre-established food combinations, said schedule of pre-established food combinations depending on the indication received from the participant.” (emphasis added.)

The Examiner has submitted that “the applicant states, “Mault does not disclose, teach or suggest how these nutritional targets are associated with a meal plan to correspond to a meal plan type” and “however, Mault does not teach the possibility to select the meals based on these percentages.” These limitations are not claimed by the applicant.” (Official Action 3/13/06, p. 4.)

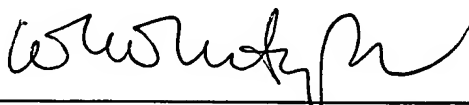
Applicant does not understand this statement as Claim 62 clearly recites that each of the meal plan types has an associated percentage of, for example, carbohydrates, protein, fat, and fruits and vegetables. Claim 62 also clearly states that the participant, provided with these meal plan types having associated percentages, chooses the meal plan type desired. Applicant respectfully submits that these limitations are recited in pending Claim 62 and are not taught or suggested in Mault.

Accordingly, Applicant respectfully submits that Mault fails to teach, disclose or suggest "receiving an indication from the participant indicative of a meal plan type desired by the participant, wherein each of the meal plan types has an associated percentage of at least one of carbohydrates, protein, fat, and fruits and vegetables that the user is prescribed to eat in the meal plan" and "forming a meal plan schedule based on at least one component of the initial personal profile and upon the indication received from the participant, the meal plan schedule being consistent with the daily food consumption goal and utilizing foods having values associated therewith, said meal plan schedule comprising a schedule of pre-established food combinations, said schedule of pre-established food combinations depending on the indication received from the participant" as required by Claim 62 and therefore cannot anticipate or render Claim 62 obvious.

It is respectfully submitted that claims 1-8, 11-14, 16-35, 38-44 and 47-75, all of the claims remaining in the application, are in order for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

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